ACC amendment (subject to sale of homeownership units in accordance with the terms of the ACC).

(k) *Declaration of trust.* As HUD may require, the PHA shall execute and file for record a Declaration of Trust as provided under the ACC to protect the rights and interests of HUD throughout the 20-year period during which the PHA is obligated to operate its developments in accordance with the ACC, the Act, and HUD regulations and requirements.

(Approved by the Office of Management and Budget under control number 2577–0157)

[57 FR 5575, Feb. 14, 1992, as amended at 59 FR 44841, Aug. 30, 1994. Redesignated and amended at 61 FR 8748, Mar. 5, 1996]

§ 968.330 PHA performance and evaluation report.

For any FFY in which a PHA has received assistance under this subpart, the PHA shall submit a Performance and Evaluation Report, in a form and at a time to be prescribed by HUD, describing its use of assistance in accordance with the approved Annual Statement. The PHA shall make reasonable efforts to notify residents and officials of the appropriate governing body of the availability of the draft report, make copies available to residents in the development office, and provide residents with at least 30 calendar days in which to comment on the report.

(Approved by the Office of Management and Budget under control number 2577–0157)

[57 FR 5575, Feb. 14, 1992, as amended at 59 FR 44843, Aug. 30, 1994. Redesignated and amended at 61 FR 8748, Mar. 5, 1996]

§ 968.335 HUD review of PHA performance.

(a) *HUD determination.* At least annually, HUD shall carry out such reviews of the performance of each PHA as may be necessary or appropriate to make the determinations required by this paragraph, taking into consideration all available evidence.

(1) *Conformity with comprehensive plan.* HUD will determine whether the PHA has carried out its activities under this subpart in a timely manner and in accordance with its comprehensive plan.

(2) *Continuing capacity.* HUD will determine whether the PHA has a continuing capacity to carry out its comprehensive plan in a timely manner. After the first full operational year of CGP, CIAP experience will not be taken into consideration except where the PHA has not yet had comparable experience under the CGP.

(3) *Reasonable progress.* HUD shall determine whether the PHA has satisfied, or has made reasonable progress towards satisfying, the following performance standards:

(b) *Notice of deficiency.* Based on HUD reviews of PHA performance and findings of any of the deficiencies in paragraph (d) of this section, HUD may issue to the PHA a notice of deficiency stating the specific program requirements which the PHA has violated and requesting the PHA to take any of the actions in paragraph (e) of this section.

(c) *Corrective action order.* (1) Based on HUD reviews of PHA performance and findings of any of the deficiencies in paragraph (d) of this section, HUD may issue to the PHA a corrective action order, whether or not a notice of deficiency has previously been issued in regard to the specific deficiency on which the corrective action order is based. HUD may order corrective action at any time by notifying the PHA of the specific program requirements which the PHA has violated, and specifying that any of the corrective actions listed in paragraph (e) of this section must be taken. HUD shall design corrective action to prevent a continuation of the deficiency, mitigate any adverse effects of the deficiency to the extent possible, or prevent a recurrence of the same or similar deficiencies;

(2) Before ordering corrective action, HUD will notify the PHA and give it an opportunity to consult with HUD regarding the proposed action;

(3) Any corrective action ordered by HUD shall become a condition of the grant agreement;

(4) If HUD orders corrective action by a PHA in accordance with this section, the PHA's Board of Commissioners must notify affected residents of HUD's determination, the bases for the determination, the conditioning requirements imposed under this paragraph, and the consequences to the PHA if it

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